

# Notice of Allowability

Application No.

09/975,063

Examiner

James Martinell

Applicant(s)

POWELL, JERRY S.

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed 10/14/03.
2. ☒ The allowed claim(s) is/are 10-21 and 24-33.
3. ☒ The drawings filed on 21 October 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                 |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                              | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>122203</u> |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                         |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material           | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                   |
|  | 9 <input type="checkbox"/> Other   |

James Martinell  
Primary Examiner  
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The references crossed out in form PTO-1449 (February 26, 2002) have either not been considered because copies of those references are not in this or in the parent files, or because they are duplicate listings of references already of record (these latter include only Powell (U.S. 5,688,679, Yanagi et al, and Nimtz et al, Eur. J. Biochem. 213: 39 (1993)).

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Cancel non-elected claims 34-39.

In claim 25, line 2, after "metallothionein" insert "-I".

In claim 33, line 5 after "metallothionein" insert "-I".

In claim 29, line 2, change "about 6 to about 85" to -- of 6.4 to 84.1 -- .

Authorization for this examiner's amendment was given in a telephone interview with Ms. Petrillo on December 19, 2003.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Martinell whose telephone number is (703) 308-0296. The fax phone number for Examiner Martinell's desktop workstation is (703) 746-5162. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be e-mailed to [james.martinell@uspto.gov](mailto:james.martinell@uspto.gov). Since e-mail communications may not be secure, it is suggested that information in such requests be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (703) 305-4028.

**PLEASE NOTE THE NEW FAX NUMBER**

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

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**AFTER ABOUT JANUARY 12, 2004 USPTO OFFICES WILL BE MOVED**

Offices of the USPTO will soon be moved. After the date in the header to this section Examiner Martinell may be reached at (571) 272-0719 and the fax phone number for his desktop workstation will be (571) 273-0719. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-0722.



**James Martinell, Ph.D.  
Primary Examiner  
Art Unit 1631**